

Exhibit 1

AFFIDAVIT FOR SEARCH WARRANT

NO. OF PGS 7

THE STATE OF TEXAS

COUNTY OF Harris

The undersigned Affiant, being a peace officer under the laws of Texas and being duly sworn, on oath makes the following statements and accusations:

My name is Elias Vega

I am a peace officer employed by the following law enforcement

agency: Pasadena Police Department

I have successfully completed the State-mandated requirements to become a peace officer. Additionally, I have successfully completed courses and/or training in the field of alcohol detection and intoxication-related offenses. I have seen intoxicated persons in the past and, during the course of my employment, I have observed numerous people who are under the influence of alcohol or other substances.

Officer Certifications:

- | | |
|---|---|
| <input checked="" type="checkbox"/> SFST Trained | <input type="checkbox"/> ARIDE Trained |
| <input type="checkbox"/> Certified Breath Test Operator | <input type="checkbox"/> ARIDE Instructor |
| <input type="checkbox"/> Certified SFST Instructor | <input type="checkbox"/> Certified MSEO (Marine Safety Enforcement Officer) |
| <input type="checkbox"/> Certified DRE | <input type="checkbox"/> Seated FST Trained |
| <input type="checkbox"/> Certified DRE Instructor | |

There is in Harris County, Texas a suspected person ("suspect") described as follows:

Defendant: David Otoniel Cardona

Age: [REDACTED]

Race: White

Sex: M

DOB: [REDACTED]

Ethnicity: Hispanic

Hair Color: [REDACTED]

Eye Color: [REDACTED]

Weight: [REDACTED]

Height: [REDACTED]

DL #:

State: TX

Type/Class: [REDACTED]

Year Expires: [REDACTED]

Suspect is presently in custody of a law enforcement agency, namely the Pasadena Police Department which will present the suspect to execute the warrants requested herein.

Affiant knows from previous experience and training that qualified laboratory personnel such as those employed by the Texas Department of Public Safety, Crime Laboratory, can through testing, determine the alcohol concentration or other drugs present in individuals by testing a sample of that individual's blood. The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph below.

On or about the 9 day of FEBRUARY, 2020 at approximately 01:02, the suspect did then and there operate a motor vehicle or watercraft in a public place in Harris County, Texas while intoxicated by not having the normal use of mental or physical faculties by reason of the introduction of alcohol, controlled substance, drug, or a dangerous drug in the suspect's body.

The suspect was operating a motor vehicle or watercraft in a public place in Harris County, Texas on the above date based on the following facts:

Probable Cause

On February 9, 2020, at approximately 1:02AM, Officer D. Drey Pasadena Police Department, saw a motor vehicle, [REDACTED] traveling northbound in the 900 block of Pasadena Blvd, in a public place, located in Harris County, Texas and fail to signal while changing lanes. Officer Drey. Officer Drey initiated a traffic stop and contacted the driver and identified himself as David Cardona with his Texas Driver's License [REDACTED]. Officer Drey found him to have a strong odor of an alcoholic beverage and red, glassy eyes. When Defendant spoke to Officer Drey, he found him to have slurred speech and unsteady on his feet after exiting the vehicle. The Defendant admitted to drinking 2 beers at a bar. Officer Drey requested that I come to his location. I came into contact with the driver and noticed him to have a strong odor of alcoholic beverage emitting from his breath and person, red and glassy eyes, and unsteady on his feet. The driver admitted that he had two Modelo beers at Ojos Locos bar. I asked him to perform a field sobriety test and observed 6 clues on the Horizontal Gaze Nystagmus, 2 clues on the Walk and Turn, and 1 clue on the One Leg Stand.

I read the driver his DWI Statutory Warning and he refused to provide a specimen's of his breath and blood. This is a violation of the Texas Implied Consent law and is also an indication to me that Defendant is attempting to hide evidence of the Defendant's level of intoxication.

AFFIDAVIT FOR SEARCH WARRANT**Field Sobriety Tests**

Were Field Sobriety Tests given?

☒ Yes ☐ No☐ Defendant refused tests☐ Physical injuries☐ Defendant was more than 65 years of age or appeared to be more than 50 pounds overweight

Field Sobriety Testing Comments:

Horizontal Gaze Nystagmus

Was HGN Given:

☒ Yes ☐ No**Clues**

Lack of Smooth Pursuit

☒ Left ☒ Right

Distinct & Sustained Nystagmus @ Maximum Deviation

☒ Left ☒ Right

Onset of Nystagmus prior to 45 degrees

☒ Left ☒ Right

Vertical Nystagmus

☐ Yes ☒ No

Total HGN Clues: (Decision Point 4; Max: 6)

6

Comments or Other Observations during HGN:

Walk and Turn

Was Walk and Turn Given

☒ Yes ☐ No**Clues**Comments

Cannot Keep Balance during instructions

☐

Starts Too Soon

☐

Stops While Walking

☐

Misses Heel to Toe

☐

Steps Off Line

☐

Uses Arms to Balance

☐

Turned Improperly

☒

Wrong Number of Steps

☒

Total Walk and Turn Clues: (Decision Point 2; Max: 8)

2

Comments or Other Observations during Walk and Turn:

AFFIDAVIT FOR SEARCH WARRANT**One Leg Stand**

Was One Leg Stand Given

☒ Yes☐ NoCluesComments

Sways while balancing

☒

Uses Arms to Balance

☒

Hops

☐

Puts Foot Down

☐

Total One Leg Stand Clues: (Decision Point 2; Max: 4)

2

Comments or Other Observations during One Leg Stand:

Vehicle Information

Vehicle Make:

Model:

Body Style:

Observations

I made the following observations about the suspect:

Clothing☐ Disorderly☐ Soiled☐ Stained☐ Torn☐ OrderlyBalance☒ Swaying☒ Unsteady☐ Needed support☐ Falling down☐ NormalWalking☐ Staggering☐ Falling☒ Swaying☐ Heavy Footed☐ NormalSpeech☒ Slurred☐ Incoherent☐ Thick-tongued☐ Slow/Mumbled☐ NormalEyes☒ Red☒ Watering☒ Dilated☐ Droopy eyelids☐ Normal

Odor of Alcoholic Beverage on breath:

☐ None☐ Slight☐ Moderate☒ Strong

Attitude:

☐ Cooperative☐ Combative☐ Indifferent☒ Cocky☐ Apologetic☐ Uncooperative

Unusual actions observed:

Suspected impairment caused by: ☒ Alcohol only ☐ Drug only ☐ Alcohol & DrugDrug Group suspected: ☐ CNS Depressant ☐ Hallucinogen ☐ Narcotic Analgesic ☐ Cannabis☐ CNS Stimulants ☐ Dissociative Anesthetics ☐ Inhalant

AFFIDAVIT FOR SEARCH WARRANT

Based upon my experiences, my training in intoxication-related offenses, and my observations of the suspect during my contact with him/her, I believe that the suspect is intoxicated by reason of the introduction of alcohol, a controlled substance, a dangerous drug, or a combination thereof, and that the suspect lost the normal use of his/her mental or physical faculties by reason of the introduction of alcohol or one of the other aforementioned substances, or a combination thereof, into his/her body. David Otoniel Cardona was then placed under arrest for the offense of Driving While Intoxicated PC 49.04.

REFUSAL EVIDENCE: After placing the suspect under arrest for Driving While Intoxicated, a sample was requested of the suspect's breath and/or blood, which the suspect refused to provide in violation of the Texas Implied Consent law. This is an indication to me that suspect is attempting to hide evidence of his/her intoxication.

WHEREFORE, based upon this affidavit and *Beeman v. State*, 66 S.W.3d 613 (Tex. Crim. App. 2002), Affiant asks for a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above and seize the same as evidence that the offense described was committed and that the suspect committed the said offense.

Further Affiant asks for issuance of an order to appropriate third parties directing them to assist Affiant in the execution of said warrant.



S/ Elias Vega

Affiant

Subscribed and sworn to before me on this 9 day of February, 2020.

S/

A large, stylized handwritten signature, likely of the Notary Public.

Peace officer, State of Texas, Pasadena PD Badge # 3505 TCOLE PID# 477888